

## **§ 158.71**

the point when agents or other intermediaries remit PFC revenue to the carrier.

(3) Upon request, a copy of the audit shall be provided to each public agency for which a PFC is collected.

### **§ 158.71 Federal oversight.**

(a) The Administrator may periodically audit and/or review the use of PFC revenue by a public agency. The purpose of the audit or review is to ensure that the public agency is in compliance with the requirements of this part and 49 U.S.C. 40117.

(b) The Administrator may periodically audit and/or review the collection and remittance by the collecting carriers of PFC revenue. The purpose of the audit or review is to ensure collecting carriers are in compliance with the requirements of this part and 49 U.S.C. 40117.

(c) Public agencies and carriers shall allow any authorized representative of the Administrator, the Secretary of Transportation, or the Comptroller General of the U.S., access to any of its books, documents, papers, and records pertinent to PFC's

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158-2, 65 FR 34543, May 30, 2000]

## **Subpart E—Termination**

### **§ 158.81 General.**

This subpart contains the procedures for termination of PFC's or loss of Federal airport grant funds for violations of this part or 49 U.S.C. 40117. This subpart does not address the circumstances under which authority to collect PFC's may be terminated for violations of the Airport Noise and Capacity Act of 1990.

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### **§ 158.83 Informal resolution.**

The Administrator shall undertake informal resolution with the public agency or any other affected party if, after review under § 158.71, the Administrator cannot determine that PFC revenue is being used for the approved projects in accordance with the terms

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of the Administrator's approval to impose a PFC for those projects or with 49 U.S.C. 40117.

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### **§ 158.85 Termination of authority to impose PFC's.**

(a) The FAA begins proceedings to terminate the public agency's authority to impose a PFC only if the Administrator determines that informal resolution is not successful.

(b) The Administrator publishes a notice of proposed termination in the FEDERAL REGISTER and supplies a copy to the public agency. This notice will state the scope of the proposed termination, the basis for the proposed action and the date for filing written comments or objections by all interested parties. This notice will also identify any corrective actions the public agency can take to avoid further proceedings. The due date for comments and corrective action shall be no less than 60 days after publication of the notice.

(c) If corrective action has not been taken as prescribed by the Administrator, the FAA holds a public hearing, and notice is given to the public agency and published in the FEDERAL REGISTER at least 30 days prior to the hearing. The hearing will be in a form determined by the Administrator to be appropriate to the circumstances and to the matters in dispute.

(d) The Administrator publishes the final decision in the FEDERAL REGISTER. Where appropriate, the Administrator may prescribe corrective action, including any corrective action the public agency may yet take. A copy of the notice is also provided to the public agency.

(e) Within 10 days of the date of publication of the notice of the Administrator's decision, the public agency shall—

(1) Advise the FAA in writing that it will complete any corrective action prescribed in the decision within 30 days; or

(2) Provide the FAA with a listing of the air carriers and foreign air carriers operating at the airport and all other issuing carriers that have remitted

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PFC revenue to the public agency in the preceding 12 months.

(f) When the Administrator's decision does not provide for corrective action or the public agency fails to complete such action, the FAA provides a copy of the FEDERAL REGISTER notice to each air carrier and foreign air carrier identified in paragraph (e) of this section. Such carriers are responsible for terminating or modifying PFC collection no later than 30 days after the date of notification by the FAA.

### § 158.87 Loss of Federal airport grant funds.

(a) If the Administrator determines that revenue derived from a PFC is excessive or is not being used as approved, the Administrator may reduce the amount of funds otherwise payable to the public agency under 49 U.S.C. 47114. Such a reduction may be made as a corrective action under § 158.83 or § 158.85 of this part.

(b) The amount of the reduction under paragraph (a) of this section shall equal the excess collected, or the amount not used in accordance with this part.

(c) A reduction under paragraph (a) of this section shall not constitute a withholding of approval of a grant application or the payment of funds under an approved grant within the meaning of 49 U.S.C. 47111(d).

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158-2, 65 FR 34543, May 30, 2000]

## Subpart F—Reduction in Airport Improvement Program Apportionment

### § 158.91 General.

This subpart describes the required reduction in funds apportioned to a large or medium hub airport that imposes a PFC.

### § 158.93 Public agencies subject to reduction.

The funds apportioned under 49 U.S.C. 47114 to a public agency for a specific primary commercial service airport that it controls are reduced if—

(a) Such airport enplanes 0.25 percent or more of the total annual enplanements in the U.S., and

(b) The public agency imposes a PFC at such airport.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158-2, 65 FR 34543, May 30, 2000]

### § 158.95 Implementation of reduction.

(a) A reduction in apportioned funds will not take effect until the first fiscal year following the year in which the collection of the PFC is begun and will be applied in each succeeding fiscal year in which the public agency imposes the PFC.

(b) The reduction in apportioned funds is calculated at the beginning of each fiscal year and shall be an amount equal to—

(1) In the case of a fee of \$3 or less, 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section; and

(2) In the case of a fee of more than \$3, 75 percent of the projected revenues from the fee in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned under this section.

(c) If the projection of PFC revenue in a fiscal year is inaccurate, the reduction in apportioned funds may be increased or decreased in the following fiscal year, except that any further reduction shall not cause the total reduction to exceed 50 percent of such apportioned amount as would otherwise be apportioned in any fiscal year.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158-2, 65 FR 34543, May 30, 2000]

### § 158.97 Special rule for transitioning airports.

(a) Beginning with the fiscal year following the first calendar year in which an airport has more than .25 percent of the total number of boardings in the U.S., the sum of the amount that would be apportioned under 49 U.S.C. 47114 to the public agency controlling that airport in a fiscal year, after application of § 158.95, and the projected PFC revenues to be collected in such fiscal year, shall not be less than the sum of the